(94)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

Writ Petition No. 1397 of 1998

PETITIONER — Madkam Hunga S/o. Handa Aged about 48 years, by caste Gond, resident of village Neela Varam Tahsil Konta District Bastar (MP.)

VERSUS

RESPONDENTS

1. The State of Madhya Pradesh, through the Secretary, Department of Forest, Vallabh Bhawan, Bhopal (MP).
2. Conservator of Forest, Bastar Division Jagdalpur (MP).
3. Divisional Forest Officer (Territorial) Sukma district Bastar (MP).
4. Divisional Forest Officer (Production) Sukma at Jagdalpur district Bastar (MP).
5. Depot Incharge, Forest Depot Sukma district Bastar (MP).

Present: Shri V.R. Tiwari, learned counsel for the petitioner.
Shri Vinay Harit, learned Dy. Advocate General for the respondents.

ORAL ORDER
(Passed on 4th September, 2006)

The issue brought before the Court relates to the title of subject land. Whereas, as per the petitioner, the subject land is a private property and the Government has nothing to do with it, the case of the State and its authorities is that the subject land forms part of the reserved forest and it is vested in the State Government by virtue of the notification issued under Section 4 of the Indian Forest Act. In view of the above pleadings, what arises for

decision-making is the contentious issue relating to title of the property. Therefore, the appropriate forum to decide the title question is jurisdictional civil Court, and such question cannot be decided appropriately and conclusively only on the basis of affidavit and counter affidavit without permitting the parties to lead evidence and subject them to cross-examination by each other.

(2) In that view of the matter, I dismiss the writ petition, however, reserving liberty to the petitioner to workout his legal remedy, if he so advised, by instituting a civil suit before the jurisdictional civil Court. All contentions raised by the parties as set out in their respective pleadings are left open to be agitated before the civil Court. No costs.

Sd/-
Chief Justice